



1 THE COURT: Mr. Perez --

2 MR. PEREZ: Yes, Your Honor. Good afternoon.

3 THE COURT: -- good afternoon. Have we got an  
4 estimate of the cash recoverable from the property?

14:45 5 MR. PEREZ: I think Miss Hayden may speak to that,  
6 Your Honor.

7 MS. HAYDEN: Your Honor, we have the appraised  
8 value, but you know how that can be. The property has been  
9 vacant for over a year, year and a half to two years. It  
14:45 10 would just be a guesstimate. I mean --

11 THE COURT: What was the appraised value?

12 MS. HAYDEN: The total amount of the properties  
13 were appraised at anywhere between 450- to 500,000 total for  
14 all ten properties. They have taxes outstanding on all of  
14:45 15 them and things like that.

16 THE COURT: All right. Thank you.

17 Now, I thought the last time we were together  
18 we talked about putting this into a fund and people would  
19 draw against it and then, when it was proportionate to their  
14:46 20 need or, I mean, proportionate to something, then, if some  
21 didn't need it, we could use that to help the needs of  
22 others after they exhausted it. Is that what we talked  
23 about?

24 MR. PEREZ: Your Honor, just for the record, we're  
14:46 25 submitting Document 299. I know what was submitted right

1 before that, the one that we tried -- The one that we're  
2 asking the Court to consider is Document No. 299, the order  
3 of restitution.

4 MR. MAGLIOLO: I can address that, Your Honor. We  
14:46 5 did talk about it. We just did not know -- on this side, on  
6 the criminal side, we just did not know the mechanism to do  
7 that.

8 THE COURT: I still don't know.

9 Yes, Miss DeGabrielle.

10 MS. DeGABRIELLE: Your Honor, for the record,  
11 Cynthia DeGabrielle for the United States.

12 I have done some research into other  
13 situations with minor victims and other victims in which the  
14 Court may want to set up a fund for future needs as opposed  
14:47 15 to strictly past compensation. I have a couple of forms  
16 that have been used in other districts that I am studying  
17 now.

18 What those courts have done is essentially set  
19 up a trust, which is -- it's not realistic to expect the  
14:47 20 district court clerk to administer those funds because it  
21 might be complex. But what these courts have done is set up  
22 a separate trust fund with a trustor, a trustee and a  
23 mechanism by which the expenses of the victim are assessed.  
24 And I'll be glad to provide some suggestions to the Court if  
14:48 25 the Court would like.

1 THE COURT: Okay. I mean, that's going to take  
2 some time, but I need to decide which -- and I guess the  
3 important thing is that, while \$450,000 is a nice sum of  
4 money, it's two-thirds of the first request, and that  
14:48 5 request -- I have some discussion for that later.

6 Mr. Adler.

7 MR. ADLER: Judge, I don't really have a dog in  
8 this fight so long as the Court stands by its prior ruling  
9 that the restitution amount will not be any greater than the  
14:48 10 amount recovered from the forfeited properties. The only  
11 reason I rise is to express a concern to the government and  
12 the Court that the way this order is worded I don't know if  
13 you can just cut a check to a minor and the order say that  
14 the money is --

14:48 15 MR. MAGLIOLO: All are adults now, Your Honor.

16 MR. ADLER: Oh. Okay. I didn't realize that.

17 THE COURT: I thought one of them was still 17.

18 MR. MAGLIOLO: I don't believe so, Your Honor.

19 THE COURT: The function of the trust is not that  
14:49 20 they're a minority. It was for seeing that the money went  
21 carefully. You know, this is a limited fund and I think it  
22 should be spent to the extent it's reasonable and all that  
23 for restorative benefits.

24 All right. I did -- if you see the chart  
14:49 25 there --

1 MR. PEREZ: Yes, Your Honor.

2 THE COURT: So, I took the months that they worked  
3 and then next is the percentage of the total time that the  
4 five of them worked. And then assuming -- I didn't know the  
14:50 5 figure. I assumed \$500,000 was a realistic figure. And,  
6 so, the next one is what they would get if \$500,000 were  
7 recovered based on prorating it by the time spent.

8 The next column is the actual request that has  
9 been made, and the last column is the percentage of the  
14:50 10 funds available that that request represents.

11 Miss DeGabrielle, do you have a suggestion  
12 about a presumptive allegation based on tenure?

13 MS. DeGABRIELLE: Your Honor, my concern with  
14 regard to the financial litigation aspect is just making  
14:51 15 sure that the losses each victim suffered or experienced is  
16 somehow recorded in the record with the Court at least --

17 THE COURT: Well, I would -- You could probably  
18 make a claim for \$450,000 for each of them and support it  
19 with something slightly different from Michigan's, but,  
14:51 20 still, on the other hand, we're not capable of ascertaining  
21 that one of them wasn't scarred by it at all or does not now  
22 appear to be scarred, from some professional point of view.  
23 It seems to me that how long they were there represents  
24 approximation of the level of exposure to the harm.

14:52 25 MS. DeGABRIELLE: Yes, Your Honor.

1           THE COURT: Now, to get a liquidated sum, I could  
2 simply double -- make it a million-dollar restitution order  
3 for the proceeds and then say that each one gets this  
4 fraction held in trust. I mean, what we have to work out  
14:52 5 is -- and I don't believe you were here last time -- is one  
6 of these girls is going to disappear. She's going to decide  
7 that she's had enough of this and move to Belgium or  
8 something. That money should not be wasted. I believe it  
9 will be easy to find a trustee who would be willing to do  
14:53 10 this, and I am willing to help to cut the trustee's costs,  
11 but there are these plan administrators in tort litigation.  
12 When there's a settlement, the lawyers don't know anything  
13 about it. And, so, they keep track of the people and they  
14 process the claims and present them to me.

14:53 15           The mechanics we can work out. It's what we  
16 say that makes it definitive, because, once the land is  
17 sold, then we just have a pile of cash, and then the Court  
18 will hold the proceeds of the restitution, whatever it is,  
19 from these -- ten properties, is it?

14:54 20           MS. HAYDEN: Yes, Your Honor.

21           THE COURT: -- ten properties will be held in trust  
22 presumptively allocated by their approximate tenure on  
23 Clinton Drive. I don't know what else we could do.

24           MS. DeGABRIELLE: Your Honor, the statute provides  
14:54 25 for the order in which funds are paid out to victims, and

1 when a victim is no longer there or no longer available to  
2 receive the money, then there is a procedure for handling  
3 that.

4 THE COURT: We'll just go pro rata.

14:55 5 MS. DeGABRIELLE: Yes.

6 THE COURT: So, if the person who had 45 percent of  
7 the time dropped out, it would simply double everybody  
8 else's percentage.

9 MS. DeGABRIELLE: Yes, Your Honor.

14:55 10 THE COURT: All right. Mr. Perez, are you  
11 following your co-counsel?

12 MR. PEREZ: Yes, Your Honor.

13 THE COURT: One observation. While we are unable  
14 to do some of the things, the work done and the requests  
14:55 15 made by the YMCA are significantly more thoughtful and  
16 limited to what they should have been. I want to speak  
17 briefly about Michigan.

18 We have a Texas claim for \$725,000. The YMCA  
19 or whatever it is, the "Y", says that it will cost them  
14:56 20 about \$4,000 to get legal assistance to adjust their  
21 immigration status. In Michigan that costs \$35,000 or  
22 10 plus 25 that somehow they have already incurred. Doing  
23 what I have no idea. I have seen a whole bunch of lawyers  
24 on that side of the table, but they have all been paid by  
14:56 25 somebody other than Lutheran Services of Michigan.

1                   The extrapolations and things -- And while I  
2 agree in an ideal world she should get to go to college for  
3 free, the money is not there, first of all; and, second of  
4 all, if it were, it probably ought to be spent or retained  
14:57 5 to make sure that the others all got whatever counsel is the  
6 most penetrating, profound and long-lasting. Job counseling  
7 we could get from dozens of places for free. Competent  
8 psychotherapy is a somewhat more expensive and essential  
9 program because, whatever the effects of this experience  
14:57 10 are, they can interfere with education, employment and other  
11 relationships, where job counseling, because you've got to  
12 write a resume and some things like that, you could do while  
13 "disturbed" -- judging by my clerk's applications. I have  
14 never seen Mr. Perez's resume, but....

14:58 15                   So, that's the plan. It's still tentative  
16 because we have to work out the details. I don't think we  
17 need to have you here for working out the trust and finding  
18 a trustee and that sort of thing.

19                   MR. MAGLIOLO: If it please the Court, there was  
14:58 20 one thing that would make the transfer of property perhaps  
21 smoother, and even though, arguably, this defendant has  
22 right to the property that has already been forfeited, to  
23 help effectuate the transfer of title a lot of times the  
24 title companies want the last owner's signature or at least  
14:59 25 something indicating they are transferring the title, and we



1 have brought that paperwork today. I didn't know if the --  
2 Would the Court want to order the Defendant to sign that  
3 or --

4 THE COURT: No. I would ask him politely to do it.

14:59 5 MR. MAGLIOLO: And that's what I was wondering,  
6 because that would effectuate the -- because we don't want  
7 to -- it would be worth less if there's any kind of cloud on  
8 the title, Your Honor.

9 THE COURT: Yes, sir. Before I got this cushy  
14:59 10 government job I actually did a lot of land work as a  
11 lawyer. That's why I am being picky with you all when you  
12 bring me these orders that wasn't conveying the title.

13 Is there an acknowledge on the document?

14 MS. DeGABRIELLE: The proposed document?

15:00 15 THE COURT: Yes, ma'am.

16 MS. DeGABRIELLE: Yes, Your Honor.

17 THE COURT: May I see an exemplar.

18 MS. DeGABRIELLE: Yes, Your Honor.

19 THE COURT: Actually, I think it needs an  
15:00 20 acknowledgment and not a jurat. It needs to say this person  
21 acknowledged he executed....

22 MR. ADLER: The government has very politely asked  
23 me to present this document to my client and I have done so.  
24 She has declined to sign it. I am concerned that if the  
15:00 25 Court orders her to sign it that it may be seen as some type

1 of waiver or possible appellate issue on our part. She does  
2 not want to sign it. I agree with the government that she  
3 has forfeited, as of the Court's order, all interest in the  
4 property; so, it doesn't seem to be necessary for the  
15:01 5 transfer.

6 And I would respectfully disagree with  
7 Mr. Magliolo's comment that it somehow affects the value of  
8 the property whether she signs this. The Court has divested  
9 her, through the forfeiture order, of any interest in this  
15:01 10 property. So, compelling her to sign this seems  
11 inappropriate and unnecessary.

12 THE COURT: Why is it inappropriate?

13 MR. ADLER: Inappropriate in the sense that you're  
14 forcing her to sign a document that may preclude her from  
15:01 15 raising an issue on appeal.

16 THE COURT: If she does it under compulsion I'm not  
17 sure there is, technically, a waiver.

18 MR. ADLER: But it just doesn't seem necessary  
19 since the forfeiture -- I don't think I have ever been  
15:01 20 presented with this kind of document before, because when  
21 the property is forfeited, under the law, her interest in  
22 the property no longer exists.

23 THE COURT: DeGabrielle's middle name is "Belt and  
24 Suspenders". When you buy a piece of land every bypasser  
15:02 25 you see on your way to the courthouse will sign a waiver.

1 MR. ADLER: And I think, outside the criminal  
2 context, that's good practice.

3 THE COURT: I don't understand why it would waive  
4 her technical claims on appeal, but....

15:02 5 MS. DeGABRIELLE: Your Honor, may I clarify  
6 something on the record? As Miss Hayden made it clear in  
7 the memorandum that we submitted to the Court, the United  
8 States does not intend to proceed with forfeiting properties  
9 but, rather, in order to get the restitution to the victims  
15:02 10 more quickly, we will proceed through the financial  
11 litigation statutes under the Federal Debt Collection  
12 Practices Act or under a direct order of the Court, if the  
13 Court elects to go that way under the All Writs Act. But,  
14 in any event, it is not our intention to finalize the  
15:03 15 forfeiture so as to avoid the money going into the hands of  
16 the Attorney General.

17 THE COURT: Well, but are we going to hold the  
18 funds until the appeal is over?

19 MS. DeGABRIELLE: No, Your Honor. Our right to  
15:03 20 execute a lien or to foreclose on a lien is not stayed  
21 pending Defendant's appeal unless the Defendant asks the  
22 Court to stay execution until the judgment is -- and the  
23 Court orders us to stay execution of judgment.

24 MS. HAYDEN: Just to add, Your Honor, I believe the  
15:03 25 forfeiture was unopposed and the restitution is unopposed.

1 I don't know if that makes any difference, but on appeal I'm  
2 not really sure what the appellate issues would be since  
3 both have been unopposed.

4 MR. ADLER: Judge, there were sentencing objections  
15:04 5 raised in the way the restitution was calculated, number  
6 one. What I'm not opposed to, on behalf of my client, is if  
7 the restitution amount is not larger than what is obtained  
8 from the forfeited properties, then I don't believe that's  
9 going to be an issue.

10 THE COURT: Well, I thought I ordered it. Didn't I  
11 say that in the order?

12 MR. ADLER: I think you said it in court. I don't  
13 remember if it was in the order, but I don't know if the  
14 government has the same recollection as I do.

15 THE COURT: Well, I thought I made that commitment.  
16 Whether it was orally or in writing I don't actually know.

17 MR. MAGLILOLO: Your Honor, that's also the way the  
18 government remembers it. That's why we were surprised that  
19 the Defendant, after getting that commitment from all  
15:04 20 parties involved, would refuse to sign the paperwork that  
21 would help the liquidation of the property. It was all done  
22 per -- That's what counsel had represented to the Court and  
23 that's what the government pretty much was in agreement  
24 with. So, this is a new wrinkle today, the Defendant  
15:05 25 refusing to sign the transfer of documents.

1 THE COURT: Well, now we have gotten a waiver from  
2 the government to restitution above the proceeds of the ten  
3 properties. So, why can't she waive her interest in the ten  
4 properties?

15:05 5 MR. ADLER: And, Judge, all I can tell the Court  
6 is, after discussing it with her, she does not want to sign  
7 this waiver. And, again, although I understand that it may  
8 make things easier for the government in dealing with the  
9 title policies, she doesn't want to sign it and she has been  
15:05 10 divested of any right in the property. So, it doesn't seem  
11 to be necessary. It doesn't affect the value of the  
12 restitution. And our decision --

13 THE COURT: Well, you can't tell whether it will  
14 affect the value or not. I mean, I don't know what state  
15:06 15 the title is in, period. You know, what we have done here  
16 is forfeit her interests.

17 MS. HAYDEN: Yes, Your Honor. She's co-owner with  
18 co-defendant Javier Belmontes and he is set for sentencing  
19 June 18th. He has agreed to forfeit his interest in seven  
15:06 20 of the properties. And her plea agreement -- the government  
21 agreed to allow him to retain his interest in three of the  
22 properties. So, that's the state of the title. There's no  
23 other owners in the property other than those two  
24 individuals.

15:06 25 THE COURT: So, is he going to consent to the

1 government's selling the three and splitting the proceeds?

2 MS. HAYDEN: Yes, Your Honor. That is my  
3 understanding.

4 THE COURT: Because you don't want me to be in  
15:06 5 business with him.

6 MS. HAYDEN: Exactly.

7 THE COURT: And vice versa. I mean, if he is  
8 smart, he doesn't want to have you as a partner. Not  
9 personally. "You" being the government.

10 15:07 MS. HAYDEN: I understand.

11 THE COURT: All right. Let me think about that.  
12 This is not the ruling, but my sense is that I have a  
13 reluctance to compel her to sign a document which only  
14 pertains to what should be a closed issue on the title of  
15:07 15 the property, the forfeiture of which she has also agreed  
16 to.

17 MS. DeGABRIELLE: Your Honor, as the Court  
18 contemplates this issue, I would just like to bring to the  
19 Court's attention -- I am sure the Court is aware of the All  
15:08 20 Writs Act and the authority in the court to execute whatever  
21 order is necessary to carry out the Court's business.

22 THE COURT: It's one of my favorite acts. 'He can  
23 do what he wants.' It actually turns out it doesn't mean  
24 that, but....

15:08 25 MS. DeGABRIELLE: So, the fact that some of the

1 issues raised by defense counsel about the Court questioning  
2 maybe the Court's authority or risk of appearance of  
3 oppression in ordering the Defendant --

4 THE COURT: It's my job.

15:08 5 MS. DeGABRIELLE: -- that could become final with  
6 the All Writs Act, Your Honor.

7 MR. ADLER: I'm not questioning the Court's  
8 authority. And, of course, if the Court orders her, she  
9 risks being held in contempt if she refuses. I am simply  
15:09 10 saying she has declined to sign it, and it seems to me there  
11 is another way to get where the government needs to be. If  
12 it's the title companies that want some proof, then perhaps  
13 an order stating the status of the situation from the Court  
14 might carry more weight than any possible waiver she might  
15:09 15 sign.

16 THE COURT: I am going to think about this.

17 Has the government talked to the title  
18 company?

19 MS. DeGABRIELLE: With regard to these properties,  
15:09 20 no, Your Honor, but we are dealing with these issues in a  
21 broader scope with other properties. We're in the process  
22 of trying to educate title companies about what a court  
23 order divesting someone of ownership means. Other districts  
24 in Texas don't seem to have the same trouble that we have.  
15:10 25 I think we'll eventually get there. It's just we haven't

1     gotten there yet.

2             THE COURT: Well, it's not a common problem,  
3     although they must deal with bankruptcy orders all the time.

4             MS. DeGABRIELLE: I think the bankruptcy statutes  
15:10 5     carry a procedure for acquiring title just like the  
6     forfeiture statutes do, but --

7             THE COURT: So does the Texas law.

8             MS. DeGABRIELLE: So, if we foreclosed on a lien,  
9     for example --

15:10 10            THE COURT: Or she might just decide to have  
11     it forfeited and admit she doesn't want the properties in  
12     exchange for a plea and all that stuff. I mean, I don't  
13     know why I couldn't quiet title.

14            MS. DeGABRIELLE: It's a matter that needs to be  
15:10 15     raised with the U.S. Marshal Service as well, Your Honor.  
16     Maybe we can get them and the title companies onboard on  
17     these matters that fall into that...prior to --

18            THE COURT: How do you select the title company you  
19     use?

15:11 20            MS. DeGABRIELLE: I think we'll select one that  
21     understands how to represent that a title is forfeitable,  
22     you know, when there is this glitch in the chain of  
23     ownership that --

24            THE COURT: It's not really a glitch. This order  
15:11 25     is no different than a probated court order that says that



1 "X" died and now "Y" has the property, an order enforcing a  
2 contract, it seems to me. But, still, there are a  
3 reasonably modest number of these compared with the universe  
4 of commercial and residential foreclosures.

15:12 5 Contempt seems to be a uniquely ineffectual  
6 tool at this stage in the procedure, Mr. Adler. What do I  
7 do? Let her out for 90 days as punishment?

8 MR. ADLER: I didn't want to raise that, Judge, but  
9 obviously, that is --

15:12 10 THE COURT: Well, I understand. It's hard to see  
11 it as a useful or --

12 MR. ADLER: The other thing I would raise, Judge,  
13 is this certainly could have been raised in discussions with  
14 the government prior to her pleading guilty, and to sort of  
15:12 15 force it on her now, when we could have perhaps used it to  
16 negotiate a favorable plea agreement for her, also seems  
17 unfair, if nothing else.

18 THE COURT: Well, no. I mean, I don't know why  
19 assisting in the forfeiture is unfair.

15:13 20 MR. ADLER: No. Assisting is not in the  
21 forfeiture, Judge, but it's clearly something the government  
22 feels that it needs and thereby could have been a bargaining  
23 chip to negotiate some sort of an agreement with her.

24 THE COURT: I think she already agreed to give up  
15:13 25 her right. That's what agreeing to a forfeiture is. This

1 is a different version of the same commitment.

2 I am going to think about this because I want  
3 to make sure that we maintain as much of the value of the  
4 properties as possible. Perhaps I could give one of the  
15:13 5 government lawyers to the title company as a hostage.

6 All right. Are there any other problems?

7 MR. MAGLIOLO: No, Your Honor.

8 THE COURT: Miss DeGabrielle, would you please send  
9 me the examples that you have, a copy of them. Do you have  
15:14 10 them in an editable form?

11 MS. DeGABRIELLE: "Edible"?

12 THE COURT: "Editable".

13 MS. DeGABRIELLE: Yes. I have it in electronic  
14 form.

15:14 15 THE COURT: As you have known for a number of  
16 years, I skipped my diction classes. It's the only thing  
17 that kept me from being a famous country and western  
18 singer -- well, that and not being able to sing. I could  
19 have stumbled into other fields of music, because,  
15:14 20 apparently, in some of them it doesn't matter whether you  
21 can sing or not.

22 In a digital form.

23 MS. DeGABRIELLE: Yes, Your Honor. And I can send  
24 it to you.

15:14 25 THE COURT: If you will just e-mail them to my case

1 manager, please, ma'am. I will look at them and think about  
2 this. And do that with the order of restitution in case I  
3 want to --

4 And are you sure they're all adults,

15:14 5 Mr. Magliolo?

6 MR. PEREZ: May I have one moment, Your Honor?

7 THE COURT: Yes, sir.

8 MR. PEREZ: They're all adults now, Your Honor. In  
9 fact, the youngest victim turned 18 this month. So, they're  
15:15 10 all adults now.

11 THE COURT: All right.

12 MR. MAGLIOLO: Yes, Your Honor. I am sure.

13 THE COURT: We're still using initials. If we have  
14 adults who are the beneficiaries of a restitution order, I  
15:15 15 think we ought to go ahead and start doing things in their  
16 names. Shouldn't we?

17 MR. PEREZ: One more moment. Let me speak to the  
18 agent because there are some issues in this case, Your  
19 Honor.

15:15 20 MR. ADLER: I will talk with my client, but I don't  
21 think that she would have any problem not attaching a stigma  
22 to any of these individuals by using their names. Now,  
23 whether it causes problems as far as getting money to --

24 THE COURT: At some point we have to write a check  
15:16 25 to somebody besides "RA". The trust will have to be -- The

1 trust doesn't have to be put in the record, I don't guess.  
2 The government can keep a copy. Each girl could have a  
3 copy, but....

4 MR. PEREZ: The Government's position is, Your  
15:16 5 Honor, to speak to the agent and other people involved in  
6 this case. If we could keep their initials, Your Honor,  
7 because it's open to the public, it's open to the media  
8 and --

9 THE COURT: Okay. No. I'm -- Of course, that's  
15:16 10 true of victims in all your other cases, and these were  
11 anonymous because they were minors.

12 MR. PEREZ: Yes, Your Honor.

13 THE COURT: And that is -- But for this round I  
14 guess we'll have to have a sealed document that -- because  
15:17 15 we don't have any Social Security numbers or --

16 MR. PEREZ: We really appreciate it, Your Honor.

17 MR. MAGLILOLO: And maybe we can structure something  
18 where we have some limited sealing except as to appropriate  
19 parties. We do have sometimes as to the lawyers and to the  
15:17 20 U.S. Attorney's Office. It may be that we can structure it  
21 in such a way it won't be available to the general public  
22 but be available to the people who needs it in order to  
23 transfer the property --

24 THE COURT: Some bank is going to have to look at  
15:17 25 it if we don't keep the funds here. If it's going to be a

1 trust, they'll probably want to see that there is a trust.  
2 But the trust document can simply be kept private if it's  
3 not filed at all.

4 MR. PEREZ: And, again, we appreciate the Court --

15:18 5 THE COURT: Yeah. There's a continual conflict  
6 between the public emphasis and the public administration of  
7 justice and people not wanting to be identified. With  
8 children, it should be automatic that they're not, but as  
9 adults it should be done with great care. Anonymous  
15:18 10 accusers, anonymous witnesses are a very bad thing to have.

11 MR. PEREZ: Although they do know --

12 THE COURT: They know. This part is over.

13 All right. I will add that to my list of  
14 things to resolve. But at the moment we'll do the -- I take  
15:19 15 it, then, there has been no concern expressed by a title  
16 company about the forfeiture order's terms.

17 MS. DeGABRIELLE: Not the forfeiture order, Your  
18 Honor. If the assets are seized and forfeited by the United  
19 States, there is a proceeding to quiet title in the  
15:19 20 forfeiture statutes. There's not such a thing in financial  
21 litigation, unless we actually foreclose on the lien. Then  
22 there is a procedure by which title gets transferred.

23 What other districts in Texas do is appoint a  
24 receiver, have the assets titled in the receiver's name and  
15:19 25 have the receiver sell the property so there is no

1 continuation of title. I think we can find an easier way to  
2 do it, but --

3 THE COURT: I mean, if it's forfeited to the United  
4 States why can't the United States just deed it?

15:20 5 MR. MAGLIOLO: It's not going to be forfeited to  
6 the United States, Your Honor. Miss Hayden can explain  
7 that, but my understanding is it was forfeited to the United  
8 States. Then we have to ask the United States for  
9 permission to do what we want to do.

15:20 10 THE COURT: Well, we don't want to do that.

11 MR. MAGLIOLO: I'm thankful for Miss Hayden that  
12 she's explained all that to us. And that's why we are -- it  
13 took us a little while to figure out how to do it in a  
14 manner to give the Court the latitude to do what the Court  
15:20 15 wants to do. And that's why we got Miss DeGabrielle  
16 involved, because she -- between the two of them, then they  
17 gave us directions on how to effectuate the Court's wishes,  
18 and that's why we're proceeding in this manner.

19 MS. HAYDEN: I understand what Your Honor is  
15:20 20 saying. I understand exactly. And these are things that  
21 need to be worked out. I never thought that there shouldn't  
22 be any problem because it's already titled to the United  
23 States. The problem is, to be titled to the United States  
24 completely, you have to have a final order of forfeiture.  
15:21 25 And you're familiar with a third-party ancillary proceeding

1 where you publish and you know the third parties.

2 So, at this point, FLU is going to come in.

3 There is not any lienholder that we're aware of expect for  
4 one potential lienholder. We're still going to publish

15:21 5 according to what our obligation is to do and then FLU is  
6 going to -- instead of us going through the complete  
7 process, the Financial Litigation Unit would then come in to  
8 actually liquidate the properties.

9 And in forfeiture even sometimes, Your Honor,  
15:21 10 with the title companies we're having problems. Different  
11 title companies require different things, and even with a  
12 forfeiture order a lot of times they require a deed -- you  
13 know, many times we'll have a warranty deed from the person  
14 from whom the properties or the -- We are trying to work out  
15:21 15 things.

16 The Marshal Service really does a good job  
17 trying to work through these problems with the title  
18 companies, but we do have issues with title companies  
19 sometimes.

15:21 20 THE COURT: Well, I know, but they're a lot like  
21 some parts of the government who are used to checking Box A,  
22 checking Box B, and court orders are not normally part of  
23 that. I mean, having closed a whole bunch of land  
24 transactions, you would be surprised at the number of things  
15:22 25 that don't fit standard operating procedures and it's

1 frustrating. On the other hand, if I were going to put up  
2 my money to guarantee title, I might be careful, but  
3 sometimes it's just a reaction to the novelty rather than to  
4 a substantive defect.

15:22 5 I mean, we know the title went in to  
6 Miss Rojas. Right?

7 MS. HAYDEN: Yes, Your Honor.

8 THE COURT: And it's a general warranty deed?

9 MS. HAYDEN: Right. Yes, Your Honor.

15:22 10 THE COURT: And, so, what I said was whatever she  
11 got she gets in restitution. It should be easy.

12 MS. HAYNE: And to be fair, Your Honor, we haven't  
13 done this very often through the FLU section; so, it's all  
14 being kind of explored. But I agree with you. I think with  
15:23 15 the facts that we have it should be something that is not  
16 going to present too many problems.

17 THE COURT: All right. What I would suggest is you  
18 choose a title company and just simply go talk to them and  
19 say, after we find out what you end up with, 'Here's what  
15:23 20 the Court is doing. Here's what the title in Miss Rojas  
21 says. What would you require to pass title to a third-party  
22 purchaser?'

23 MR. MAGLIOLO: Your Honor, could we just, for the  
24 record -- if the Court is reluctant to order the Defendant  
15:24 25 to sign the documents, could the Court on the record request



1 that the Defendant sign the documents and let the record be  
2 clear that the Defendant will then refuse?

3 THE COURT: Well, I did. Her lawyer made a nice  
4 little speech.

15:24 5 MR. MAGLIOLO: Well, I mean, that was really  
6 refused to sign for us. The Court hadn't really requested  
7 her to sign it.

8 THE COURT: If I order her to do it I am going to  
9 order it. I'm not going to ask her, 'Will you obey an order  
15:24 10 if I issue one?'

11 MR. MAGLIOLO: Thank you, Your Honor.

12 THE COURT: I am going to decide if that's the way  
13 I want to approach this and then I am going to do it, and  
14 then -- I am not going to put her to a hypothetical choice.

15:24 15 MR. MAGLIOLO: Thank you, Your Honor. Because it  
16 would be my understanding that, if she was going to be found  
17 in contempt, that would be dead time that would not apply  
18 against the time that she has to serve. So, there would be  
19 a detriment to -- I believe.

15:25 20 THE COURT: How long is the sentence?

21 MR. MAGLIOLO: 16 years, Your Honor, I believe.

22 MR. ADLER: I believe that's correct, Your Honor.

23 THE COURT: I don't know how realistic it is to  
24 treat 90 days out of 16 years as a marginally effective  
15:25 25 punishment.

1 MR. MAGLIOLO: Well, I can remember in state  
2 practice, Your Honor, where people would say they didn't do  
3 a certain amount of time, but then they got to thinking that  
4 when that time is up they want to go someplace else, and  
15:25 5 another 60, 90, 120, 180 days is a significant amount of  
6 time once your time is served.

7 THE COURT: No. I understand. But my point is  
8 thinking 16 years out is different from you can be out in a  
9 year or a year and a quarter. That's a human scale  
15:25 10 perception.

11 MR. MAGLIOLO: I understand.

12 THE COURT: All right. So, that's my suggestion,  
13 is you talk to a title -- one or both of you talk to a title  
14 company and say, 'Here's what we're doing. What would you  
15:26 15 require?' and then they can look up on their computer --

16 Do you have a title report?

17 MS. HAYDEN: Yes, Your Honor, we do. We have title  
18 reports on all the properties.

19 THE COURT: Carry it with you and say, 'Look. We  
15:26 20 have got warranty deeds going in to these people. The Court  
21 wants to order a transfer. What else would you need?'

22 MS. DeGABRIELLE: Yes, Your Honor. I will do that.

23 MR. ADLER: I am just impressed that Mr. Magliolo  
24 can remember back when he practiced in state court.

15:26 25 THE COURT: I can't hear you.

THE COURT: I am impressed he can remember anything. He'd probably say that about me, too.

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